



Minnesota Pollution Control Agency

Office of the Commissioner

November 21, 2000

Mr. Frank Lyons, Administrator
United States Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3507

Re: State Program Approval for the Underground Storage Tanks Program

Dear Mr. Lyons:

As you may be aware, the Minnesota Pollution Control Agency (MPCA) has submitted its application for state program approval for the Underground Storage Tanks Program (UST) under Section 9004 of the Resource Conservation and Recovery Act. Our understanding is that the United States Environmental Protection Agency (EPA) is in the final stages of its review process prior to publication in the Federal Register. During recent discussions at the MPCA, we realized that we should have included with the application packet a statement regarding the state of Minnesota's position regarding the boundary of the Mille Lacs Reservation. The issue of the boundary of the Mille Lacs Reservation is relevant because of the statement in the draft Memorandum of Agreement between the MPCA and EPA which states that, "Upon award of final approval by EPA, the State assumes primary responsibility for implementing the Subtitle I Underground Storage Tank Program within its boundaries, except for Indian Country." Indian Country includes Indian reservations.

In the past, EPA has taken the position, in the context of operation of other federal environmental programs, that the Mille Lacs Reservation near Lake Mille Lacs encompasses 61,000 acres and includes the townships of Kathio, South Harbor and Isle Harbor in Mille Lacs County. The state of Minnesota's position is that the Mille Lacs Reservation is comprised of only approximately 2,200 acres of Indian trust land within these townships. (See, for example, the MPCA's Additional Comments on the Mille Lacs Band's Application for Treatment as a State for the Underground Injection Control Program, November 15, 1996.)

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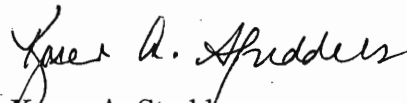
However, an Indian reservation boundary dispute is not well suited for resolution in an administrative setting. Thus, the MPCA has generally cooperated with EPA and allowed EPA to continue to operate federal programs within the area that EPA describes as the Mille Lacs Reservations with the explicit understanding that MPCA's cooperation does not constitute a concession that EPA's position on the boundary is correct nor a waiver of the state's right in the future to seek resolution of the boundary dispute in an appropriate forum.

We anticipate that we will work with EPA on the UST program in this same manner with the understanding that MPCA's cooperation does not constitute a concession that EPA is correct on the boundary issue or a waiver of the state's right to dispute the boundary issue in the future.

We are requesting that this letter becomes a part of the application package. However, we are not requesting changes in any of the other portions of the application package.

I appreciate your consideration of this request. Please contact Lisa Thorvig, Deputy Commissioner at (651) 296-7305, with any questions regarding this matter.

Sincerely,



Karen A. Studders
Commissioner

KAS:dd

cc: Andrew Tschampa, EPA, Region 5
Delores Sieja, EPA, Region 5
Tom Kenney, EPA, Region 5
Jerry Parker, EPA Headquarters
Carmen Chittick Dierking, Assistant Attorney General